

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:20-cv-00027-MR**

<b>MICHAEL ODELL FAIR,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>FNU NEAL, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
_____	)	

**THIS MATTER** is before the Court on Plaintiff's "In Re Michael Odell Fair Declaration of Notice of Motion of a Solicitation for Order See Attachment: 'Notice' Sent to Lincoln County Sheriff Office." [Doc. 15].

On June 22, 2020, Plaintiff's Amended Complaint, filed pursuant to 42 U.S.C. § 1983, survived initial review as to Plaintiff's claim based on the use of excessive force against Defendant Neal and an unspecified number of Doe Defendants.<sup>1</sup> [Doc. 14]. The Court, therefore, ordered Plaintiff to provide information for service of process on Defendant Neal and the Doe Defendants "when their identities are known," so that the U.S. Marshal may effectuate service. [Id. at 6].

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<sup>1</sup> Plaintiff's claims against Defendants Lincoln County and Lincoln County Sheriff's Office were dismissed. [Doc. 14].

Plaintiff now moves the Court to order the “Lincoln County Sheriff Department to provide Plaintiff with [a] photo array of first (1st) and second (2nd) shift staff that was on duty at Lincoln County Jail on the 26th day of December 2018 with full names accompanying individual photo[s] [so] that Plaintiff may accurately identify all [who were] involved in the incident.” [Doc. 15 at 1]. Plaintiff includes with his motion a “Notice” written to the Lincoln County Sheriff’s Office requesting these same photographs, which appears to have also been separately transmitted to the Sheriff’s Office. [Doc. 15 at 4-6].

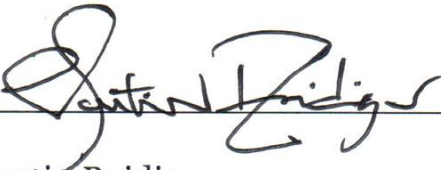
First, the Court has not yet entered a Pretrial Order and Case Management Plan (“PTOCMP”) in this case. As such, any requests for discovery are premature. Once the Court has entered the PTOCMP in this case, the Plaintiff may serve discovery requests on Defendants. Furthermore, discovery requests should not be filed with the Court. Discovery materials should only be exchanged between the parties and only after the Court has entered the PTOCMP. All future discovery requests must be served on the opposing party.

Second, because Lincoln County Sheriff Department is no longer a party to this proceeding, Plaintiff may need to use a subpoena pursuant to Rule 45 of the Federal Rules of Civil Procedure to request the materials he

seeks. In either event, engaging the Court at this stage of the proceedings, without having properly attempted to obtain these materials, is inappropriate and, frankly, wasteful of judicial resources. Plaintiff is directed to the Order of Instructions that was mailed to him on March 10, 2020 for additional instruction on this issue and others. [See Doc. 7].

**IT IS, THEREFORE, ORDERED** that Plaintiff's motion [Doc. 15] shall be **STRICKEN** from the record in this matter.

Signed: July 14, 2020

  
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Martin Reidinger  
Chief United States District Judge

